

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS, CRIMINAL TERM PART 33**

-----X
THE PEOPLE OF THE STATE OF NEW YORK,

-against-

JOHN K. O'HARA,

Defendant.
-----X

**Hon. Miriam Cyrulnik
Ind. No. 13525/1996**

**STIPULATION
VACATING
CONVICTION**

IT IS HEREBY STIPULATED AND AGREED by and between the People of the State of New York, by the Acting Assistant District Attorney of Kings County, and the attorney for the defendant, JOHN O'HARA, that:

Defendant was convicted after a jury trial of one count of false registration under Election Law § 17-104(4), one count of offering a false instrument for filing in the first degree under Penal Law § 175.35, and five counts of illegal voting under Election Law § 17-132(3), which judgment of conviction was entered on October 18, 1999 by the Honorable Abraham G. Gerges; and that

Defendant subsequently filed a motion pursuant to Criminal Procedure Law §§ 440.10(1)(g) and (h) to vacate his conviction due to selective prosecution, in violation of his state and federal constitutional rights; and that

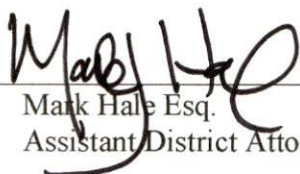
The People recently discovered that a material witness who testified against Defendant at trial provided false and misleading testimony which was of such character that had the witness testified truthfully, the verdict would have been more favorable to Defendant;

Accordingly, Defendant's judgment of conviction for one count of false registration under Election Law § 17-104(4), one count of offering a false instrument for filing in the first degree under Penal Law § 175.35, and five counts of illegal voting under Election Law § 17-

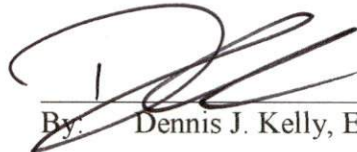
132(3), is hereby VACATED pursuant to Criminal Procedure Law § 440.10(1)(g), based upon newly discovered evidence, specifically, that a prosecution witness provided false and misleading testimony which was material to a finding of guilty.

Based upon the parties' stipulation to vacate Defendant's conviction pursuant to Criminal Procedure Law § 440.10(1)(g), Defendant withdraws his pending motion to vacate his conviction due to selective prosecution.

Eric Gonzalez, Esq.
Acting District Attorney – Kings County
For the People of the State Of New York

By: 
Mark Hale Esq.
Assistant District Attorney

Law Offices of Dennis J. Kelly, P.C.
For the defendant, John O'Hara

By: 
Dennis J. Kelly, Esq.

SO-ORDERED, this 12th day of January, 2017, that Defendant JOHN O'HARA's judgment of conviction for one count of false registration under Election Law § 17-104(4), one count of offering a false instrument for filing in the first degree under Penal Law § 175.35, and five counts of illegal voting under Election Law § 17-132(3), entered on October 18, 1999, is hereby VACATED pursuant to Criminal Procedure Law § 440.10(g) based upon newly discovered evidence, specifically, that a prosecution witness provided false and misleading testimony which was material to a finding of guilty.


HON. MIRIAM CYRULNIK

HONORABLE MIRIAM CYRULNIK
J.S.G

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